

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
2000 Biennial Regulatory Review--)	
Comprehensive Review of the)	
Accounting Requirements and)	CC Docket No. 00-199
ARMIS Reporting Requirements for)	
Incumbent Local Exchange Carriers:)	
Phase 2 and Phase 3)	

**PHASE 3 COMMENTS OF THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Introduction

In 1999, the Federal Communications Commission (FCC) initiated a two-phased comprehensive review of its accounting rules and the related reporting requirements for incumbent local exchange carriers (ILECs) to keep pace with changing conditions in the competitive telecommunications industry. In Phase 1, which concluded with the *Phase 1 Report and Order*,¹ the FCC adopted Part 32 accounting rule changes and reporting reform measures for the Automated Reporting Management Information System (ARMIS) that could be implemented quickly. After reviewing the issues and the accounting and reporting rules, the FCC realized that the comprehensive review requires more than the two-phased process initially contemplated when it established this proceeding. In the Notice of Proposed Rulemaking (NPRM), adopted in this proceeding, the FCC commenced Phase 2 to seek comment on further accounting and reporting reform measures that may be implemented in the near term, and Phase 3 to consider the

¹ Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1, CC Docket No. 99-253, *Report and Order*, 15 FCC Rcd 8690 (2000) (*Phase 1 Report and Order*).

appropriate indicia for more significant deregulation in this area. Specifically, in Phase 3, the FCC seeks to undertake a broader examination of Part 32 and ARMIS requirements with the goal of determining what additional changes can be made as competition develops, and assessing ultimately what, if any, specific accounting and reporting requirements are necessary when local exchange markets become sufficiently competitive.

Discussion

The Public Service Commission of Wisconsin (Wisconsin Commission) submits the following comments on the accounting and reporting issues discussed in the NPRM regarding Phase 3 of this proceeding. The Wisconsin Commission has previously filed comments in both Phase 1 and 2 of this proceeding.

Roadmap for Accounting and Reporting Deregulation

In Phase 3 of this proceeding, the FCC seeks comment on what roadmap it should follow for the deregulation of accounting and reporting requirements. The FCC questions whether there is a point at which it should completely eliminate its accounting and reporting requirements and whether that point is when all local exchange carriers become non-dominant. The FCC asks how it should make a finding of non-dominance and how it should proceed if an incumbent remains dominant for certain services, but not others. In addition to seeking comments on what roadmap it should follow for accounting and reporting deregulation, the FCC seeks comment on whether asymmetric regulation makes sense as the industry moves to a more competitive environment. The FCC asks what the policy rationale is for subjecting one type of carrier to accounting and reporting requirements when other carriers are not subject to such requirements.

In its Phase 2 comments, the Wisconsin Commission agreed that the fundamentals of the telecommunications industry have changed, and that the FCC's accounting and reporting requirements have not evolved to reflect the new technological and market realities. The Wisconsin Commission believes that as the industry continues its transition to a more competitive environment, the accounting and reporting requirements must evolve accordingly. As a result of changes in the industry, a greater degree of flexibility for managing a company's business and for the reporting of accounting information is needed. Regulatory accounting and reporting requirements must meet the needs of company management, regulators, investors, lawmakers, and competitors during the transition process.

Until there is effective competition, however, the FCC and the states cannot carry out their respective statutory mandates without uniform and accurate accounting and reporting information. Information is needed for the following purposes :

1. To support tariffed prices, to provide information concerning the financial condition of ILECs, and to serve as an efficient system for both management and federal and state regulators.
2. To ensure ratepayers of regulated services do not bear the costs and risks of nonregulated activities.
3. To ensure proper cost data is available on which to base a system of sufficient universal service support.
4. To implement jurisdictional separations.
5. To assess the state of the telecommunications network including the extent of deployment of advanced technology.

6. To address cost issues in various proceedings such as long-term number portability, interconnection, pole attachments, and collocation.

Regarding the FCC making a finding of non-dominance, Wis. Stat. § 196.195(2) provides that the Wisconsin Commission may make a determination whether effective competition exists in a market for a telecommunications service which justifies a lesser degree of regulation. If the Wisconsin Commission makes such a determination, it may suspend the application of one or more provisions of Wisconsin law. The Wisconsin Commission has applied this provision of the Statutes on a company-by-company, service-by-service basis. In making a determination of effective competition pursuant to Wis. Stat. § 196.195(2), the Wisconsin Commission shall consider a number of factors. These factors include: (1) number and size of competitors; (2) extent to which substitutable services are available, the ability of customers to get these services at comparable rates, terms, and conditions, and the ability of competitors to provide these services; (3) market power of competitors and recent trends; and (4) the existence of any significant barriers to entry or exit.

Other provisions of Wis. Stat. § 196.195 that may be pertinent to this FCC proceeding are:

1. If the Wisconsin Commission determines that effective competition exists in a market for a telecommunications service that justifies lesser regulation, the Wisconsin Commission shall establish the level of regulation for telecommunications utilities providing the service in that market as follows:

a. Unless the public interest requires that different regulatory requirements be imposed, the level of regulation imposed upon all telecommunications utilities providing the service in that market shall be equal.

b. The level of regulation imposed shall be the amount of regulation which does not hinder competition and is consistent with protecting the public interest.

2. The Wisconsin Commission may, by order, suspend a number of statutory provisions including, but not limited to, sections relating to uniform accounting, annual reporting, depreciation rates and practices, rules on service and changes in rates, and affiliated interest transactions.

3. If the Wisconsin Commission suspends the application of any provision of law, it may require the telecommunications utility to comply with any condition reasonably necessary to protect the public interest because of the suspended application.

4. The Wisconsin Commission may suspend the application of a provision of law relating to an accounting or reporting requirement only if the Wisconsin Commission determines that it will have enough information to determine whether the suspension of the application of any provision of law is justified at any time after the suspension is ordered.

In two separate proceedings, price-regulated telecommunications utilities petitioned the Commission, pursuant to Wis. Stat. § 196.195 to suspend application of price regulation with respect to the provision of Basic Message Telecommunications Service (MTS). In their petitions, the two price-regulated utilities asserted that effective competition exists within a relevant market composed of intraLATA toll services. Based upon an evaluation of the statutory factors set forth in Wis. Stat. § 196.195(2)(a), the Wisconsin Commission found that effective competition exists in the relevant market for intraLATA toll service. The effective competition that existed in the relevant market for intraLATA toll services, therefore, justified lesser regulation of the utilities' MTS offerings. Based on this finding, the Wisconsin Commission found that, subject to a number of conditions, it was reasonable to establish a level of regulation that is equal to the regulation

applicable to telecommunications carriers providing competing presubscribed intraLATA toll services in the relevant market.

The Wisconsin Commission suggests that this company-by-company, service-by-service basis for evaluating competition is appropriate for the FCC consideration of regulatory changes. In addition to this however, the Wisconsin Commission suggests that the FCC use its biennial regulatory reviews as required by federal law to look at the level of competition on an industry-wide basis. The FCC can use the information obtained from its surveys on the status of competition in the industry to determine if competition has progressed such that it should look at the industry as a whole rather than on a company-by-company, service-by-service basis as is currently done in Wisconsin. Without a careful and thorough examination of various markets, it is premature to find that industry-wide deregulation is appropriate at this time.

Regarding asymmetric regulation, the Wisconsin Commission notes that except for MTS, no services provided by Wisconsin ILECs have been determined to be subject to effective competition. As a result, competitive local exchange carriers (CLECs) in Wisconsin are subject to much less regulation than the ILECs. A rulemaking proceeding is in progress looking at the appropriate level of regulation for CLECs. Currently, CLECs in Wisconsin are certified on an interim basis subject to certain conditions. The certifications are interim because of the pending rulemaking. If a CLEC is not affiliated with a Wisconsin ILEC, it is subject to certain statutory provisions including annual reports, rules on service and changes in rates, cross-subsidization, affiliated interest transactions, universal service funding, protection of telecommunications customers, questionnaires, and customer complaints. Regarding annual reporting requirements, CLECs are required to file a report form much more abbreviated than the report required for

ILECs. CLECs affiliated with a Wisconsin ILEC are currently subject to additional interim conditions regarding cross-subsidization and discriminatory behavior.

As stated above, the Wisconsin Commission currently has a rulemaking proceeding in progress to implement its state and federal statutory authority to regulate CLECs and competitive entry into local telephone exchange markets. In this rulemaking, the Wisconsin Commission will propose new policies establishing an appropriate level of regulation for CLECs including reporting requirements and the application procedures for obtaining certification.

Although continuing review of the regulatory landscape is appropriate, the Wisconsin Commission suggests that asymmetric regulation in a transitional industry is reasonable.

Section 271 Authorizations

The FCC seeks comments on the effects of Bell Operating Company section 271 authorizations to provide in-region interLATA services. In addition, the FCC asks whether it would be administratively practical for accounting and reporting requirements to be reduced or eliminated on a state-by-state basis.

While the Wisconsin Commission recognizes that section 271 authorizations represent a significant step in the transition to competitive markets, we believe that such authorizations should not automatically impact accounting and reporting requirements. Section 271 authorizations, while intended to foster competition, do not guarantee effective competition as defined previously in these comments. The FCC should be careful about removing accounting and reporting requirements prior to, or even after, a company receives section 271 authorization. Some information may be needed to monitor the impact of the authorizations, such as interLATA and wholesale revenues, and any performance penalty plan payments. Regardless,

the FCC should not put in place any limitations in this FCC proceeding that would prevent it from imposing additional accounting and reporting requirements as part of any section 271 authorization.

Pricing Flexibility

The FCC seeks comment on whether achieving pricing flexibility² should be a trigger for relaxing accounting and reporting requirements and if this would be administratively practical given that pricing flexibility is granted on a market-by-market basis.

Pricing flexibility is generally provided as a company transitions to a competitive market. Unless the pricing flexibility is specifically tied to effective competition, the Wisconsin Commission believes that the relaxation of accounting and reporting requirements approved in Phase 1 of this proceeding and being discussed in Phase 2 are sufficient. Even if the pricing flexibility is tied to effective competition, it is the availability of effective competition and not the resulting pricing flexibility that should trigger relaxing accounting and reporting requirements.

Non-Traditional Services

The FCC notes that a number of incumbent LECs, both large and small, have begun to compete as CLECs outside of their traditional service areas. Moreover, a number of ILECs are offering bundled packages of offerings – such as voice, Internet access, wireless, and long distance – in competition with other carriers. The FCC questions how accounting and reporting requirements should evolve as carriers no longer remain in their historical line of business.

² See, e.g., Access Charge Reform, CC Docket No. 96-262, *Fifth Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 14221 (1999).

Consistent with its comments regarding section 271 authorizations, the Wisconsin Commission believes that these non-traditional services should be treated separately and should not impact a company's accounting and reporting requirements.

Small and Mid-Size ILECs

FCC accounting and reporting requirements already recognize that the burdens of compliance may outweigh the benefits for small and mid-size ILECs. In the 1996 Act, Congress explicitly recognized that smaller and rural carriers might face unique circumstances warranting lesser regulatory requirements.³ Regardless of what actions the FCC takes with respect to the larger carriers, the FCC asks whether deregulation should proceed in a different fashion for companies with fewer than two percent of access lines.

Small-size companies are already subject to fewer accounting and reporting requirements. In Phase 2 of this proceeding, the FCC asked whether mid-size companies should be subject to fewer accounting and reporting requirements. The Wisconsin Commission believes that further reductions in these requirements are only warranted when these smaller companies achieve effective competition.

Conclusion

As stated in its Phase 2 comments, the Wisconsin Commission supports the streamlining of accounting and reporting requirements to keep pace with the changing conditions in the telecommunications industry. The total elimination of accounting and reporting requirements, or the reduction in these requirements to that imposed on CLECs should only be permitted when a

³ See, e.g., 47 U.S.C. § 251(f)(2).

company achieves a significant level of competition in its markets. Under Wisconsin law, that level is defined as effective competition. In Wisconsin, effective competition is judged on a company-by-company, service-by-service basis. The FCC can use its biennial regulatory reviews and surveys on the state of competition in the industry to determine if competition has progressed to a level that justifies looking at deregulation on an industry-wide basis. Finally, similar to Wisconsin, the FCC should consider opening a proceeding to determine whether it is reasonable to impose some minimal level of regulation on CLECs.

Regarding other issues in Phase 3 of this FCC proceeding, section 271 authorizations, pricing flexibility, and the provision of non-traditional services should have minimal or no impact on accounting and reporting requirements. The FCC should be careful about removing accounting and reporting requirements prior to a company receiving a section 271 authorization and should not put in place any limitations that would prevent it from imposing additional accounting and reporting requirements as part of any section 271 authorization. Finally, further reductions in accounting and reporting requirements for small-size companies are only warranted when these companies achieve effective competition.

Dated at Madison, Wisconsin, February 13, 2001

By the Commission:

/s/ Lynda L. Dorr

Lynda L. Dorr
Secretary to the Commission

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